

**Exhibit C**

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

TYRONE S. ALLEN,

Plaintiff,

v.

KINLEY R. BURTON AND FEDEX  
FREIGHT, INC. D/B/A FEDEX FREIGHT,

Defendants.

CIVIL ACTION FILE  
NUMBER 23A02498

**DEFENDANTS DEMAND**  
**A JURY OF 12.**

**DEFENDANTS' ANSWER**

Defendants Kinley R. Burton and FedEx Freight, Inc. answer the Complaint and show the Court as follows:

**FIRST DEFENSE**

Plaintiff failed to serve Defendant Burton properly and sufficiently with the Summons and Complaint.

**SECOND DEFENSE**

The Court lacks personal jurisdiction and venue over Defendant Burton.

**THIRD DEFENSE**

The Statute of Limitations and the Doctrine of Laches bar Plaintiff's claims.

**FOURTH DEFENSE**

Plaintiff could have avoided the June 8, 2021 accident by exercising ordinary for his own safety.

**FIFTH DEFENSE**

Plaintiff assumed the risk of his injuries.

**SIXTH DEFENSE**

Plaintiff's claims are barred or reduced by his own comparative or contributory negligence.

**SEVENTH DEFENSE**

1.

Defendants admit Plaintiff is a resident and citizen of Georgia, Defendant Burton is a resident and citizen of South Carolina, Plaintiff may serve him at his residence 357 Knollwood Drive, Anderson, South Carolina 29625, and the Court has subject matter jurisdiction, but deny the remaining allegations.

3. [sic.]

Defendants admit the allegations in paragraph 3. [sic.]

4. [sic.]

Defendants admit jurisdiction and venue are proper as to Defendant FedEx Freight and the Court has subject matter jurisdiction, but deny the remaining allegations.

**BACKGROUND**

6. [Sic]

Defendants incorporate by reference herein their responses to paragraphs 1 to 5 of the Complaint.

7. [sic.]

Defendants admit the allegations in paragraph 7. [sic.]

8. [sic.]

Defendants admit the allegations in paragraph 8. [sic.]

9. [sic.]

Defendants admit the allegations in paragraph 9. [sic.]

10. [sic.]

Defendants admit Defendant FedEx Freight owned the 2016 Peterbilt Defendant Burton was operating at the time of the June 8, 2021 accident, but deny the remaining allegations.

11. [sic.]

Defendants admit Defendant Burton was operating the tractor trailer in the scope of his employment with Defendant FedEx Freight and *respondeat superior* applies to Plaintiff's negligence claims against them, but deny the remaining allegations.

12. [sic.]

Defendants admit Defendant Burton rear-ended Plaintiff's tractor trailer, which was stopped illegally in fourth lane from left on Interstate 285, while traveling west in the slow lane on Interstate 285 June 8, 2021 at about 2:14 a.m. in Dekalb County, Georgia, but deny the remaining allegations.

13. [sic.]

Defendants admit Plaintiff denied injury at the accident scene,

2	Name (Last, First): ALLEN, TYRONE					Address: 5100 HIGHPOINT RD 78 UNION CITY (FULTON), GA 30291				
	Age: 44	Sex: Male	Unit # 2	Position: Front Seat-Left Side	Safety Eq: Unknown	Ejected: Not Ejected	Extricated: No	Air Bag: Non-Deployed Air	Injury: No Apparent Injury (OT)	Taken for Treatment: No
	Injured Taken To:		By:		EMS Notified Time:		EMS Arrival Time:		Hospital Arrival Time:	

but are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13. [sic]

14. [sic.]

Defendants deny the allegations in paragraph 14. [sic.]

15. [sic.]

Defendants deny the allegations in paragraph 15. [sic.]

16. [sic.]

Defendants deny the allegations in paragraph 16. [sic.]

17. [sic.]

Defendants admit the allegations in paragraph 17. [sic.]

18. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, but are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

19. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, but are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

### **COUNT I: NEGLIGENCE**

20. [sic.]

Defendants incorporate by reference herein their responses to paragraphs 1 to 19 [sic.] of the Complaint.

21. [sic.]

Defendants admit Defendant Burton and Plaintiff had a duty to exercise ordinary care while operating a tractor trailer, but deny the remaining allegations.

22. [sic.]

Defendants deny the allegations in paragraph 22. [sic.]

23. [sic.]

Defendants deny the allegations in paragraph 23. [sic.]

24. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

25. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

26. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

27. [sic.]

Defendants deny the allegations in paragraph 27. [sic.]

**COUNT II: NEGLIGENCE PER SE**

28. [sic.]

Defendants incorporate by reference herein their responses to paragraphs 1 to 27 [sic.] of the Complaint.

29. [sic.]

Defendants admit Defendant Burton and Plaintiff had a duty to exercise ordinary care while operating a tractor trailer, but deny the remaining allegations.

30. [sic.]

Defendants deny the allegations in paragraph 30. [sic.]

31. [sic.]

Defendants deny the allegations in paragraph 31. [sic.]

32. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

33. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

34. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

35. [sic.]

Defendants deny the allegations in paragraph 35. [sic.]

**COUNT III: IMPUTED LIABILITY – FEDEX FREIGHT**

36. [sic.]

Defendants incorporate by reference herein their responses to paragraphs 1 to 35 [sic.] of the Complaint.

37. [sic.]

Defendants admit Defendant Burton was operating the tractor trailer in the scope of his employment with Defendant FedEx Freight and *respondeat superior* applies to Plaintiff's negligence claims against them, but deny the remaining allegations.

38. [sic.]

Defendants admit Defendant Burton was operating the tractor trailer in the scope of his employment with Defendant FedEx Freight and *respondeat superior* applies to Plaintiff's negligence claims against them, but deny the remaining allegations.

39. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

40. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

41. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

42. [sic.]

Defendants deny the allegations in paragraph 42. [sic.]

**COUNT IV: NEGLIGENT HIRING, TRAINING & SUPERVISION – WERNER**

43. [sic.]

Defendants incorporate by reference herein their responses to paragraphs 1 to 43 [sic.] of the Complaint.

44. [sic.]

Defendants deny the allegations in paragraph 44. [sic.]

45. [sic.]

Defendants deny the allegations in paragraph 45. [sic.]

46. [sic.]

Defendants deny the allegations in paragraph 46. [sic.]

47. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

48. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.



49. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

50. [sic.]

Defendants admit Plaintiff denied injury at the accident scene, deny they were negligent and are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

51. [sic.]

Defendants deny all allegations in paragraphs 1 to 50 of the Complaint they did not specifically admit above.

WHEREFORE, having fully answered all allegations in paragraphs 1 to 50 [sic.] of the Complaint, Defendants respectfully request judgment in accordance with the Law.

**DEFENDANTS DEMAND A JURY OF 12.**

DENNIS, CORRY, SMITH & DIXON, LLP

/s/ Grant B. Smith

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Georgia bar number 658345

/s/ William B. Pate

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**CERTIFICATE OF SERVICE**

I electronically filed **DEFENDANTS' ANSWER** with the Clerk of Court using the Odyssey efileGA system which will send notification of such filing to the following:

Patrick A. Berkshire, Esq.  
Eric L. Jensen, Esq.  
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Atlanta, Georgia 30328

I served the document by United States mail in a properly addressed envelope with adequate postage thereon, to the following non-Odyssey efileGA participants: None.

This \_\_\_\_ day of July, 2023.

/s/ William B. Pate  
WILLIAM B. PATE, ESQ.  
For the Firm

524-14314(GBS)